

Licensees that meet their interim benchmarks shall file a second interim report with the Commission no later than February 17, 2016 and no sooner than 30 days prior to this date. Licensees that do not meet their interim benchmarks shall file their second interim report no later than on February 17, 2015 and no sooner than 30 days prior to this date.

(m) The WCS licensee holding the authorization for the D Block at 758–763 MHz and 788–793 MHz (the Upper 700 MHz D Block licensee) shall comply with the following construction requirements.

(1) The Upper 700 MHz D Block licensee shall provide a signal coverage and offer service over at least 75 percent of the population of the nationwide Upper 700 MHz D Block license area within four years from February 17, 2009, 95 percent of the population of the nationwide license area within seven years, and 99.3 percent of the population of the nationwide license area within ten years.

(2) The Upper 700 MHz D Block licensee may modify, to a limited degree, its population-based construction benchmarks with the agreement of the Public Safety Broadband Licensee and the prior approval of the Commission, where such a modification would better serve to meet commercial and public safety needs.

(3) The Upper 700 MHz D Block licensee shall meet the population benchmarks based on a performance schedule specified in the Network Sharing Agreement, taking into account performance pursuant to § 27.1327 as appropriate under that rule, and using the most recently available U.S. Census Data. The network and signal levels employed to meet these benchmarks must be adequate for public safety use, as defined in the Network Sharing Agreement, and the services made available must include those appropriate for public safety entities that operate in those areas. The schedule shall include coverage for major highways and interstates, as well as such additional areas that are necessary to provide coverage for all incorporated communities with a population in excess of 3,000, unless the Public Safety Broadband Licensee and the Upper 700 MHz D Block licensee jointly determine, in consultation with a relevant community, that such additional coverage will not provide significant public benefit.

(4) The Upper 700 MHz D Block licensee shall demonstrate compliance with performance requirements by filing a construction notification with the Commission within 15 days of the expiration of the relevant benchmark, in accordance with the provisions set forth in § 1.946(d) of this chapter. The licensee must certify whether it has met the relevant performance requirement and must file a description and certification of the areas for which it is providing service. The

construction notifications must include the following:

(i) Certifications of the areas that were scheduled for construction and service by that date under the Network Sharing Agreement for which it is providing service, the type of service it is providing for each area, and the type of technology it is utilizing to provide this service.

(ii) Electronic coverage maps and supporting technical documentation providing the assumptions used by the licensee to create the coverage maps, including the propagation model and the signal strength necessary to provide service.

(n) At the end of its license term, the Upper 700 MHz D Block licensee must, in order to renew its license, make a showing of its success in meeting the material requirements set forth in the Network Sharing Agreement as well as all other license conditions, including the performance benchmark requirements set forth in this section.

§ 27.15 Geographic partitioning and spectrum disaggregation.

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request from the Commission an authorization for partial assignment of a license pursuant to § 1.948.

(2) AWS and WCS licensees may apply to partition their licensed geographic service area or disaggregate their licensed spectrum at any time following the grant of their licenses.

(b) *Technical Standards*—(1) *Partitioning.* In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to section 1.948 and list the partitioned service area on a schedule to the application. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1983 North American Datum (NAD83).

(2) *Disaggregation.* Spectrum may be disaggregated in any amount.

(3) *Combined partitioning and disaggregation.* The Commission will consider requests for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(4) *Signal levels.* For purposes of partitioning and disaggregation, part 27 systems must be designed so as not to exceed the signal level specified for the particular spectrum block in § 27.55 at the licensee's service area boundary,

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unless the affected adjacent service area licensees have agreed to a different signal level.

(c) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in § 27.13.

(d) *Compliance with construction requirements.* The following rules apply for purposes of implementing the construction requirements set forth in § 27.14.

(1) *Partitioning.* Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the second option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

(2) *Disaggregation.* Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both parties' licenses will be subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be

subject to forfeiture without further Commission action.

[62 FR 9658, Mar. 3, 1997, as amended at 63 FR 68954, Dec. 14, 1998; 65 FR 3146, Jan. 20, 2000; 65 FR 57268, Sept. 21, 2000; 67 FR 45373, July 9, 2002; 69 FR 5715, Feb. 6, 2004]

EFFECTIVE DATE NOTE: At 72 FR 48848, Aug. 24, 2007, § 27.15 was amended by revising paragraph (d), effective Oct. 23, 2007. For the convenience of the user, the revised text is set forth as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

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(d) *Compliance with construction requirements—(1) Partitioning.* (i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, and Block D in the 758–763 MHz and 788–793 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that it will independently satisfy the substantial service requirement for its respective partitioned area. If a licensee subsequently fails to meet its substantial service requirement, its license will be subject to automatic cancellation without further Commission action. Under the section option, the partitioner certifies that it has met or will meet the substantial service requirement for the entire, pre-partitioned geographic service area. If the partitioner subsequently fails to meet its substantial service requirement, only its license will be subject to automatic cancellation without further Commission action.

(ii) For WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. Parties to partitioning agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the partitioner and partitionee each certifies that they will collectively share responsibility for meeting the construction requirement for the entire pre-partition geographic license area. If the partitioner and partitionee collectively fail to meet the construction requirement, then

both the partitioner and partitionee will be subject to the consequences enumerated in § 27.14(g) and (h) for this failure. Under the second option, the partitioner and partitionee each certifies that it will independently meet the construction requirement for its respective partitioned license area. If the partitioner or partitionee fails to meet the construction requirement for its respective partitioned license area, then the consequences for this failure shall be those enumerated in § 27.14(g) and (h).

(2) *Disaggregation.* (i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, and Block D in the 758–763 MHz and 788–793 MHz bands, the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. Parties to disaggregation agreements have two options for satisfying the construction requirements set forth in § 27.14. Under the first option, the disaggregator and disaggregatee each certifies that it will share responsibility for meeting the substantial service requirement for the geographic service area. If the parties choose this option and either party subsequently fails to satisfy its substantial service responsibility, both parties' licenses will be subject to forfeiture without further Commission action. Under the second option, both parties certify either that the disaggregator or the disaggregatee will meet the substantial service requirement for the geographic service area. If the parties choose this option, and the party responsible subsequently fails to meet the substantial service requirement, only that party's license will be subject to forfeiture without further Commission action.

(ii) For WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands, the following rules apply for purposes of implementing the construction requirements set forth in § 27.14. If either the disaggregator or the disaggregatee meets the construction requirements set forth in § 27.14, then these requirements will be considered to be satisfied for both parties. If neither the disaggregator nor the disaggregatee meets the construction requirements, then both parties will be subject to the consequences enumerated in § 27.14(g) and (h) for this failure.

§ 27.16 Network access requirements for Block C in the 746–757 and 776–787 MHz bands.

(a) *Applicability.* This section shall apply only to the authorizations for Block C in the 746–757 and 776–787 MHz bands assigned and only if the results of the first auction in which licenses for such authorizations are offered satisfied the applicable reserve price.

(b) *Use of devices and applications.* Licensees offering service on spectrum subject to this section shall not deny, limit, or restrict the ability of their customers to use the devices and applications of their choice on the licensee's C Block network, except:

(1) Insofar as such use would not be compliant with published technical standards reasonably necessary for the management or protection of the licensee's network, or

(2) As required to comply with statute or applicable government regulation.

(c) *Technical standards.* For purposes of paragraph (b)(1) of this section:

(1) Standards shall include technical requirements reasonably necessary for third parties to access a licensee's network via devices or applications without causing objectionable interference to other spectrum users or jeopardizing network security. The potential for excessive bandwidth demand alone shall not constitute grounds for denying, limiting or restricting access to the network.

(2) To the extent a licensee relies on standards established by an independent standards-setting body which is open to participation by representatives of service providers, equipment manufacturers, application developers, consumer organizations, and other interested parties, the standards will carry a presumption of reasonableness.

(3) A licensee shall publish its technical standards, which shall be non-proprietary, no later than the time at which it makes such standards available to any preferred vendors, so that the standards are readily available to customers, equipment manufacturers, application developers, and other parties interested in using or developing products for use on a licensee's networks.